

Caption in Compliance with D.N.J. LBR 9004-1(b)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP Joshua A.

Sussberg, P.C. (admitted *pro hac vice*) Emily E. Geier, P.C.

(admitted *pro hac vice*)

Derek I. Hunter (admitted *pro hac vice*)

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

joshua.sussberg@kirkland.com

emily.geier@kirkland.com

derek.hunter@kirkland.com

COLE SCHOTZ P.C.

Michael D. Sirota, Esq.

Warren A. Usatine, Esq.

Felice R. Yudkin, Esq.

Court Plaza North, 25 Main Street

Hackensack, New Jersey 07601

Telephone: (201) 489-3000

msirota@coleschotz.com

wusatine@coleschotz.com

fyudkin@coleschotz.com

Co-Counsel for Debtors and Debtors in Possession

In re:

BED BATH & BEYOND INC., *et al.*,

Debtors.¹



Order Filed on August 16, 2023

by Clerk

U.S. Bankruptcy Court

District of New Jersey

Chapter 11

Case No. 23-13359 (VFP)

(Jointly Administered)

ORDER (I) AUTHORIZING (A) REJECTION OF CERTAIN UNEXPIRED LEASES AND (B) ABANDONMENT OF ANY PERSONAL PROPERTY, EFFECTIVE AS OF THE REJECTION DATE AND (II) GRANTING RELATED RELIEF

The relief set forth on the following pages, numbered two (2) through seven (7), is

ORDERED.

DATED: August 16, 2023

A handwritten signature in black ink, appearing to read "Vincent F. Papalia".

Honorable Vincent F. Papalia
United States Bankruptcy Judge

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these Chapter 11 Cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these Chapter 11 Cases is 650 Liberty Avenue, Union, New Jersey 07083.

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Case No. 23-13359-VFP

Caption of Order: Order (I) Authorizing (A) Rejection of Certain Unexpired Leases and (B) Abandonment of Any Personal Property, Each Effective as of the Rejection Date and (II) Granting Related Relief

Upon the Debtors' Motion for Entry of an Order (I) Authorizing (A) Rejection of Certain Unexpired Leases and (B) Abandonment of Any Personal Property, Effective as of the Rejection Date and (III) Granting Related Relief (the "Motion"),² of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), for entry of an order (this "Order") (a) authorizing the Debtors to reject the Leases set forth on **Schedule 1** attached hereto, effective as of the Rejection Date, (b) authorizing the Debtors to abandon any Personal Property located at any such store locations, effective as of the Rejection Date, and (c) granting related relief; all as more fully set forth in the Motion; and upon the First Day Declaration; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion establish just

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

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cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor **IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** on a basis as set forth herein.
2. Pursuant to section 365 of the Bankruptcy Code, the Leases and Subleases, if applicable, identified on **Schedule 1** attached hereto are hereby rejected, to be effective as of the later of (i) the Rejection Date set forth in **Schedule 1** or (ii) the date upon which the Debtors surrender the premises to the landlord via delivery of the keys, key codes, or security codes, as applicable, to the respective landlords, but only to the extent such keys, key codes, or security codes are in possession of the Debtors, which surrender shall be deemed to have occurred notwithstanding the continued occupancy of any non-Debtor subtenant party (the “Rejection Date”).
3. Notwithstanding any provision of the *Order (I) Authorizing (A) Rejection of Certain Unexpired Leases and (B) Abandonment of Any Personal Property, Each Effective as of the Rejection Date and (II) Granting Related Relief* [Docket No. 373], the Leases and Subleases described in paragraph 2 are rejected pursuant to the terms of this Order.
4. The Debtors shall not be liable for any additional administrative expenses arising after the Rejection Date with respect to the Leases.
5. The Debtors may modify the Rejection Date set forth in **Schedule 1** by providing seven (7)-days’ notice to affected landlords.

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6. The Debtors may agree with an affected landlord, through written confirmation (which can be by email through counsel), to an alternative Rejection Date earlier than the date set forth in **Schedule 1**.

7. Nothing herein shall limit the Debtors' right to remove a Lease from **Schedule 1** prior to the Rejection Date on notice to affected parties, and to counsel to the DIP lenders.

8. The Debtors do not waive any claims that they may have against any counterparty to the Leases, whether such claims arise under, are related to the rejection of, or are independent of the Leases.

9. Nothing herein shall prejudice any party's rights to assert that the Leases are not, in fact, executory within the meaning of section 365 of the Bankruptcy Code.

10. The Debtors are authorized to abandon any Personal Property free and clear of all liens, claims, encumbrances, interests, and rights of third parties.

11. Any Personal Property of the Debtors located at the premises subject to the Leases is deemed abandoned, as of the Rejection Date free and clear of all liens, claims, encumbrances, interests, and rights of third parties. The counterparties to the Leases may dispose of Personal Property of the Debtors in their sole and absolute discretion and without further notice or order of this Court without liability to the Debtors or third parties so long as the premises have been vacated by the Debtors. No right of counterparties to the Leases shall extinguish the right of subtenants under the Subleases in their own personal property that is not property of the estate.

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12. Nothing herein shall prejudice the rights of the Debtors to argue that any of the Leases were terminated prior to the Petition Date, or that any claim for damages arising from the rejection of the Leases is limited to the remedies available under any applicable termination provision of such lease, sublease, or contract, as applicable, or that any such claim is an obligation of a third party, and not that of the Debtors or their estates.

13. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any particular claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the Motion are valid, and the rights of all parties are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. Any payment made pursuant to this Order is not intended and should not be construed as an admission as the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

14. Notwithstanding anything to the contrary contained in the Motion or this Order, any payment to be made, obligation incurred, or relief or authorization granted hereunder shall

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not be inconsistent with, and shall be subject to and in compliance with, the requirements imposed on the Debtors under the terms of each interim and final order entered by the Court in respect of the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing Debtors To (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing and (VI) Granting Related Relief* filed substantially contemporaneously herewith (the "DIP Orders"), including compliance with any budget or cash flow forecast in connection therewith and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP Orders.

15. No payment may be made by the Debtors to, or for the benefit of, any non-Debtor Insider (as defined in section 101 of the Bankruptcy Code) or any non-Debtor affiliate of or related party to any such Insider pursuant to this Order without further court approval on notice to parties in interest.

16. Nothing in this Order authorizes the Debtors to accelerate any payments not otherwise due.

17. Nothing in the Motion or this Order shall be deemed or construed as an approval of an assumption of any lease, sublease, or contract pursuant to section 365 of the Bankruptcy Code, and all such rights are reserved.

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18. Nothing contained in the Motion or this Order is intended or should be construed to create an administrative priority claim.

19. Notwithstanding anything to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

20. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

21. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

22. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.

23. Any party may move for modification of this Order in accordance with Local Rule 9013-5(e).

24. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Schedule 1

Schedule 1

Leases

No.	Non-Debtor Counterparty	Counterparty Address	Contract Description	Store #	Location Address	Rejection Effective Date	Abandoned Personal Property
1.	DDR Creekside LP	3000 Enterprise Parkway, Beachwood, OH 44122	Multi Store Lease	307	1120 Galleria Blvd, Roseville, CA 75678	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
2.	DDR Creekside LP	3000 Enterprise Parkway, Beachwood, OH 44122	Multi Store Lease	3088	1120 Galleria Blvd, Roseville, CA 75678	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
3.	DDR Creekside LP	3000 Enterprise Parkway, Beachwood, OH 44122	Multi Store Lease	6371	1120 Galleria Blvd, Roseville, CA 75678	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
4.	Oak Street Investment Grade Net Lease Fund Series 2021-2 LLC c/o Oak Steet Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	67	13900 Dallas Parkway, Addison, TX 75240	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
5.	Oak Street Investment Grade Net Lease Fund Series 2021-2 LLC c/o Oak Steet Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	3027	13900 Dallas Parkway, Addison, TX 75240	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
6.	Oak Street Investment Grade Net Lease Fund Series 2021-2 LLC c/o Oak Steet Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	6399	13900 Dallas Parkway, Addison, TX 75240	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
7.	Edison JAFLO01 LLC c/o Oak Street Real Estate Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	154	8801-1 Southside Blvd, Jacksonville, FL 32256	July 31, 2023	Miscellaneous FF&E and/or retail fixtures

No.	Non-Debtor Counterparty	Counterparty Address	Contract Description	Store #	Location Address	Rejection Effective Date	Abandoned Personal Property
8.	Edison JAFL001 LLC c/o Oak Street Real Estate Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	3071	8801 Southside Blvd Unit #10, Jacksonville, FL 32256	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
9.	Edison JAFL001 LLC c/o Oak Street Real Estate Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	7084	8801-1 Southside Blvd, Jacksonville, FL 32256	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
10.	Edison JAFL001 LLC c/o Oak Street Real Estate Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	PetSmart	8801-1 Southside Blvd, Jacksonville, FL 32256	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
11.	ICO Commercial	2333 Town Center Dr, Suite 300, Sugar Land, TX 77478	Multi Store Lease	45	17355 Tomball Pkwy Suite J1, Houston, TX 77064	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
12.	ICO Commercial	2333 Town Center Dr, Suite 300, Sugar Land, TX 77478	Multi Store Lease	3091	17355 Tomball Pkwy Suite 1K, Houston, TX 77064	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
13.	ICO Commercial	2333 Town Center Dr, Suite 300, Sugar Land, TX 77478	Multi Store Lease	6370	17355 Tomball Pkwy Suite 1H, Houston, TX 77064	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
14.	BVA Deerbrook SPE LLC c/o Big V Properties	176 N Main St Suite 210, Florida, NY 10921	Multi Store Lease	116	20514 Highway 59 N, Humble, TX 77338	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
15.	BVA Deerbrook SPE LLC c/o Big V Properties	176 N Main St Suite 210, Florida, NY 10921	Multi Store Lease	6253	20416 Highway 59 N Suite A, Humble, TX 77338	July 31, 2023	Miscellaneous FF&E and/or retail fixtures

No.	Non-Debtor Counterparty	Counterparty Address	Contract Description	Store #	Location Address	Rejection Effective Date	Abandoned Personal Property
16.	Edison DEVJ001 LLC c/o Oak Street Real Estate Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	207	1755 Deptford Center Rd, Deptford, NJ 08096	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
17.	Edison DEVJ001 LLC c/o Oak Street Real Estate Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	3092	1755 Deptford Center Rd, Deptford, NJ 08096	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
18.	Edison DEVJ001 LLC c/o Oak Street Real Estate Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	7080	1755 Deptford Center Rd, Deptford, NJ 08096	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
19.	Edison DEVJ001 LLC c/o Oak Street Real Estate Capital	30 Lasalle St Suite 4140, Chicago, IL 60602	Multi Store Lease	8066	1755 Deptford Center Rd, Deptford, NJ 08096	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
20.	ROIC California LLC c/o Retail Opportunity Investments Corporation	11250 El Camino Real, Suite 200, San Diego, CA 92130	Multi Store Lease	3099	6621 Fallbrook Avenue, Unit B, West Hills, CA 91307	July 31, 2023	Miscellaneous FF&E and/or retail fixtures
21.	ROIC California LLC c/o Retail Opportunity Investments Corporation	11250 El Camino Real, Suite 200, San Diego, CA 92130	Multi Store Lease	6381	6621 Fallbrook Avenue, Unit A, West Hills, CA 91307	July 31, 2023	Miscellaneous FF&E and/or retail fixtures